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22 FEDEX GROUND PACKAGE SYSTEM, INC. [Additional Counsel Listed on Next Page]

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24
25 IN THE UNITED STATES DISTRICT COURT
26
27 FOR THE NORTHERN DISTRICT OF CALIFORNIA

28 SHANNON SOBASZCIEWICZ and KEVIN
1 STERLING, individually and on behalf of all
2 other similarly situated, and as a proxy of the
3 State of California on behalf of aggrieved
4 employees, and Herman Overpeck, individually
5 only,

6 Plaintiffs,

7 vs.

8 FEDEX CORPORATION; FEDEX GROUND
9 PACKAGE SYSTEM, INC.

10 Defendants.

11 Case No. 4:18-cv-07553-PJH (DMR)

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**STIPULATION REGARDING
BRIEFING SCHEDULE FOR MOTION
FOR SUMMARY JUDGMENT FILED
BY FEDEX GROUND PACKAGE
SYSTEM, INC. [PROPOSED] ORDER**

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32 Attorneys for Defendant FedEx Corporation

1 Plaintiffs Herman Overpeck, Kevin Sterling, and Shannon Sobaszkiewicz (“Plaintiffs”),
2 and Defendants FedEx Ground Package System, Inc. (“FedEx Ground”), and FedEx Corporation
3 (collectively, the “Parties”) stipulate as follows pursuant to Rule 7-12 of the Civil Local Rules of
4 this Court:

5 WHEREAS, on March 25, 2022, this Court issued its Order Denying Motion for Class
6 Certification. [ECF 362.]

7 WHEREAS, on April 18, 2022, Defendant FedEx Ground filed a Notice of Motion and
8 Motion for Summary Judgement, Motion of Points and Authorities, and various declarations and
9 exhibits in support of the Motion. [ECF 372.]

10 WHEREAS, the Motion seeks full judgment on eight of the individual Plaintiffs’ claims
11 and partial judgment on another four of Plaintiffs’ claims.

12 WHEREAS, Plaintiffs’ counsel represent that they will need more time than the default
13 time period set forth in Civil Local Rule 7-3(a) to fully evaluate the factual and legal issues raised
14 in the motion, discuss them with their clients, and prepare an opposition.

15 WHEREAS, Plaintiffs’ counsel further represent that they also seek additional time due
16 to impending work commitments on substantial projects in other matters with pre-existing
17 deadlines before May 2, 2022.

18 WHEREAS, Plaintiffs’ counsel intend to substantively respond to the Motion but need
19 significant time to study the existing record for the additional reason that they need to determine
20 if there are portions of the Motion, which in Plaintiffs’ view, would require additional discovery
21 and warrant denial or deferment under Fed. R. Civ. P. 56(d).

22 WHEREAS, the Commentary to Civil Local Rule 7-2 provides: “The time periods set
23 forth in Civil L.R. 7-2 and 7-3 regarding notice, response, and reply to motions are minimum
24 time periods. For complex motions, parties are encouraged to stipulate to or seek a Court order
25 establishing a longer notice period with correspondingly longer periods for response or reply.
26 See Civil L.R. 1-4 and 1-5.”

27 WHEREAS, there are currently no pre-trial deadlines or a trial date set;

28 WHEREAS, counsel for all parties have met and conferred regarding the briefing

1 schedule concerning the Motion for Summary Judgment filed by Defendant FedEx Ground as
2 well as the relationship between this Motion and other potential motion practice in the case, and
3 STIPULATE as follows, subject to approval of the Court:

4 1. Plaintiffs shall have until June 1, 2022, to file their Opposition to Defendant
5 FedEx Ground's Motion for Summary Judgment;

6 2. Defendant FedEx Ground shall have until June 22 to file its Reply to Plaintiffs'
7 Opposition;

8 3. In the event Plaintiffs' Opposition raises an argument for further discovery,
9 denial, or deferment under Fed. R. Civ. P. 56(d), Defendants shall have an additional three (3)
10 pages to respond to that argument in addition to the page limit set by Civil Local Rule 7-4(b);

11 4. Defendant FedEx Corporation may also bring its own Motion for Summary
12 Judgment on the integrated enterprise issue and other issues that are unique to FedEx
13 Corporation, not addressed in the Motion brought by FedEx Ground, after counsel for Plaintiffs
14 and FedEx Corporation meet and confer as to what discovery may be necessary or appropriate
15 to conduct prior to such motion by Defendant FedEx Corporation. The parties agree that this
16 Motion can be brought after resolution of Defendant FedEx Ground's motion because such
17 resolution may moot some or all of FedEx Corporation's arguments. The parties further agree
18 that such Motion for Summary Judgment will be brought in time to be adjudicated before any
19 trial in this matter.

20 5. Based on the above, the Parties agree to vacate the May 26, 2022, hearing on
21 FedEx Ground's Motion. With the Court's approval of this stipulation, FedEx Ground will re-
22 notice the hearing for July 14, 2022.

23 **IT IS SO STIPULATED**

24 Respectfully submitted,

25 DATED: April 22, 2022

WHEELER TRIGG O'DONNELL LLP

26 By: /s/ Jessica G. Scott

27 JESSICA G. SCOTT
28 Attorney for Defendant
 FEDEX GROUND PACKAGE SYSTEM,
 INC.

1 Dated: April 22, 2022

SCHNEIDER WALLACE COTTRELL
KONECKY LLP

3 By: */s/ Joshua Konecky*
4 JOSHUA KONECKY
5 Attorneys for PLAINTIFFS

6 FEDEX CORPORATION
7

8 Dated: April 22, 2022

9 By: */s/ Barak Babcock*
10 BARAK BABCOCK
11 Attorney for Defendant
12 FEDEX CORPORATION

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DECLARATION OF CONSENT

Pursuant to Local Rule 5-1(i)(3) regarding signatures, I attest under penalty of perjury that concurrence in the filing of the document has been obtained from each of the other Signatories.

DATED: April 22, 2022

/s/ *Joshua Konecky*
JOSHUA KONECKY

[PROPOSED] ORDER

PURSUANT TO STIPULATION AND GOOD CAUSE SHOWN:

1. Plaintiffs shall have until June 1, 2022, to file their Opposition to Defendant FedEx Ground's Motion for Summary Judgment;

5 2. Defendant FedEx Ground shall have until June 22 to file its Reply to Plaintiffs'
6 Opposition;

7 3. In the event Plaintiffs' Opposition raises an argument for further discovery,
8 denial, or deferment under Fed. R. Civ. P. 56(d), Defendants shall have an additional three (3)
9 pages for its Opposition in addition to the page limit set by Civil Local Rule 7-4(b);

10 4. Defendant FedEx Corporation may also bring its own Motion for Summary
11 Judgment on the integrated enterprise issue and other issues that are unique to FedEx
12 Corporation, not addressed in the Motion brought by FedEx Ground, after counsel for Plaintiffs
13 and FedEx Corporation meet and confer as to what discovery may be necessary or appropriate
14 to conduct prior to such motion by Defendant FedEx Corporation. The parties are ordered to
15 meet and confer about such Motion after the Court issues its ruling on FedEx Ground's Motion
16 for Summary Judgment.

IT IS SO ORDERED.

DATED: April 25, 2022

